IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.549 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.Indian Gum Industries Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 28TH MARCH, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred question for the opinion of this Court reading as under :-

> " Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that for the purpose of computing the quantum of depreciation allowable to the assessee, "actual cost" within the meaning the section 43(1) of the Income-tax Act should not be construed as the cost of the assets as reduced by the subsidy received from the Central Government ?

2. The above question has already been answered by the Apex Court in the case of **C.I.T. V/s. P.J. Chemicals Ltd. [(1994) 210 I.T.R. 830 (S.C.)** in the affirmative i.e. in favour of the assessee and against the revenue. In this view of the matter, reference stands disposed of in terms of that Judgment with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)